

October 7, 2005

Dana Haza
Acting Director of Programs and Coordination
Office of the National Coordinator for Information Technology
Department of Health and Human Services
Room 517-D
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Meeting of American Health Information Community

Dear Acting Director Haza:

The undersigned mental health professional associations wish to welcome the first meeting of the American Health Information Community on October 7 and offer our assistance with recommendations for the development of a national interoperable health information system.

We note that AHIC's charter states that its mission is to improve access to quality health care while ensuring that patients' individually identifiable health information is secure and protected. We further note that AHIC is to develop recommendations for, among other things, "protection of health information through appropriate privacy and security practices."

At the outset of its mission, we thought it would be helpful for AHIC to be aware of the appropriate privacy and security practices that have been recognized with respect to psychotherapy. The United States Supreme Court has concluded, after an exhaustive review, that the "reason and experience" of the country shows that effective psychotherapy cannot be provided unless there is an atmosphere of confidence and trust in which the patient is willing to make a frank and complete disclosure of facts, emotions, memories and fears. For this reason, "the mere possibility of disclosure may impede development of the confidential relationship necessary for successful treatment". Jaffee v. Redmond, 116 S. Ct. 1923, 1928 (1996). Accordingly, the Court recognized a psychotherapist-patient privilege at the federal level as well as in all 50 states and the District of Columbia. 116 S. Ct. at 1929, n. 11. That privilege can only be waived with the patient's consent. We also note that the long-standing ethics standards of the undersigned professional organizations require patient consent for the disclosure of confidential patient information.

Accordingly, we request that any recommendations made by AHIC with respect to mental health information be based upon this recognized reason and experience of the country as well as accepted standards of medical ethics. Specifically, we recommend that mental health information be included in any

national interoperable health information system only with the informed consent of the patient.

We also note that at least one member of AHIC is to be “an expert on matters pertaining to privacy and security protections of individually identifiable health information”. We would appreciate it if you could identify that individual for us and distribute this letter to all members of AHIC. We welcome the opportunity to work with you and AHIC to develop recommendations that will preserve and improve access to quality mental health care.

For more information, contact James C. Pyles at (202) 466-6550.

Very truly yours,

American Psychoanalytic Association

National Association of Social Workers